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Please Quote

Our ref. 1038-1138 MIS:ah

Your ref.

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July 14, 2004

**VIA COURIER**The Commissioner of Patents and  
Trademarks,  
Washington, D.C. 20231,  
U.S.A.

Dear Sir:

**RE: U.S. Patent Application 09/806,709  
Sheena M. Loosmore et al  
PROTECTIVE RECOMBINANT HAEMOPHILUS  
INFLUENZAE HIGH MOLECULAR WEIGHT PROTEINS**On December 3, 2003, we submitted to the Office a Petition to Withdraw  
Holding of Abandonment application. A copy of which is enclosed.To date, we have received no decision with respect to this Petition. It is  
requested that the Office advise when a decision on this Petition might be expected.

Yours very truly,



Michael I. Stewart -- Reg. No. 24,973

M.I. Stewart:ah  
Enclosure.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Sheena M. Loosmore et al.  
Appl'n. No. : 09/806,709  
Filed : N/A  
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE  
HIGH MOLECULAR WEIGHT PROTEINS  
Docket No. : 1038-1138 MIS:sd

**COPY**

December 3, 2003

**BY COURIER**

The Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
U.S.A.

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT**

A Notice of Abandonment has been received on this application dated October 24, 2003. A copy of that Notice is enclosed. The abandonment is said to be for:

"...an incomplete reply was received to the Notice mailed on 05/07/2001. The reply did not include:

- A statement that the CRF is the same as the content of the sequence listing on paper or compact disc."

It is submitted that this is incorrect and the Holding of Abandonment should be withdrawn.

A Notification of Missing Requirements was mailed May 7, 2001. This document was a single sheet, copy enclosed as Exhibit I, which made no mention of any requirement for a Sequence Listing. This Notification was responded to on July 26, 2001, meeting the requirements specifically called for in the Notification.

Subsequently, there was received a Notification of Defective Response dated September 3, 2002. This Notification identified that the specification did not contain a Sequence Listing and required submission of:

- An initial or substitute computer readable form (CRF) of the Sequence Listing.
- An initial or paper copy or computer disk of the Sequence Listing, as well as an amendment directing its entry into the specification.

On September 26, 2002, in response to this Notification, there was submitted to the Office a Sequence Listing in computer-readable and hard-copy forms and a Voluntary Amendment directing entry of the Sequence Listing into the specification. A copy of the letter of September 26, 2002 is enclosed as Exhibit II as well as a copy of the return postcard showing receipt by the PTO on September 27, 2002 as Exhibit III.

The letter of September 26, 2002 contains the statement:

"It is hereby stated under the signature of the undersigned that the computer-readable and hard-copy forms of the Sequence Listing are the same."

Thus, the statement said to be missing and causing the Holding of Abandonment is already of record, and hence, the application should not be abandoned.

Accordingly, it is hereby requested that the Holding of Abandonment be withdrawn.

Respectfully submitted,

---

M.I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada,  
(416) 595-1155  
FAX No. (416) 595-1163

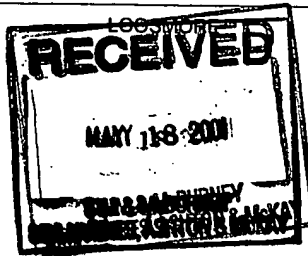


Exhibit I

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/806709		S 1038-1138 MI
INTERNATIONAL APPLICATION NO.		
PCT/CA99/00938		
I.A. FILING DATE		PRIORITY DATE
07 OCT 99		07 OCT 98

SIM & MCBURNEY  
330 UNIVERSITY AVENUE  
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TORONTO, ONT M5T 1A7

DATE MAILED:

07 MAY 2001

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494) ☒ an Elected Office (37 CFR 1.495):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> U.S. Basic National Fee.   | <input type="checkbox"/> Indication of Small Entity Status.                                  |
| <input checked="" type="checkbox"/> Copy of the international application.   | <input type="checkbox"/> Translation of the international application into English.          |
| <input type="checkbox"/> Oath or Declaration of inventors(s).  | <input type="checkbox"/> Translation of Article 19 amendments into English.                  |
| <input type="checkbox"/> Copy of Article 19 amendments.  | <input checked="" type="checkbox"/> Other: Inventor Information Sheet; Preliminary Amendment |
| <input checked="" type="checkbox"/> Priority Document.   |  |
| <input checked="" type="checkbox"/> The International Preliminary Examination Report in English and its Annexes, if any. |  |
| <input type="checkbox"/> Translation of Annexes to the International Preliminary Examination Report into English.        |  |

2. ☐ Applicant has requested early processing under 35 U.S.C. 371(f) but has not filed the following indicated items and/or the indicated items in paragraph 3 below. The Basic National Fee and the copy of the international application must be filed prior to 20 or 30 months from the priority date to avoid abandonment.

- ☐ U.S. Basic National Fee. ☐ Copy of the international application.

3. The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- ☐ a. Translation of the application into English. A processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.
- ☐ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.
- ☐ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).
- ☒ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), properly identifying the application (preferably by the International application number and international filing date). A surcharge will be required if submitted later than the appropriate 20 or 30 months from the priority date.
- ☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.
- ☒ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

4. Additional claim fees of \$\_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due (37 CFR 1.492(g)). See attached PTO-875.

5. ☐ Applicant has not submitted the required sequence listing pursuant to 37 CFR 1.821-1.825. See attached PCT/DO/EO/920.

**ALL OF THE ITEMS SET FORTH IN 3(a)-3(d), 4 AND 5 ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 22 OR 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

6. If box 3a or 3c is checked, a translation of the Annexes **MUST** be submitted no later than the time period set above or the Annexes will be cancelled: A processing fee will be required if submitted later than 20 or 30 months from the priority date.

7. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

**A copy of this notice MUST be returned with this response.**

Enclosed: ☐ PCT/DO/EO/917  
☐ PTO-875

☐ Notice of Defective Translation  
☐ PCT/DO/EO/920

Francine Young

Telephone: 703-305-3662

FORM PCT/DO/EO/905 (March 2001)

**BEST AVAILABLE COPY**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Sheena M. Loosmore, et a.  
Appl'n. No. : 09/806,709  
Title : PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE  
HIGH MOLECULAR WEIGHT PROTEINS  
Docket No. : 1038-1138 MIS:jb  
Date : September 26, 2002

**BY COURIER**

The Commissioner of Patents  
and Trademarks,  
Box SEQUENCES  
Washington, D.C. 20231,  
U.S.A.

**VOLUNTARY AMENDMENT**

Dear Sir:

Please amend this application in the following manner:

**In the Specification:**

Please add the hard copy of the Sequence Listing following page 64  
and immediately preceding the claims.

**REMARKS**

This Voluntary Amendment inserts the Sequence Listing into the  
specification.

Respectfully submitted

---

Michael I. Stewart  
Reg. No. 24,973

Toronto, Ontario, Canada  
(416) 595-1155  
FAX No. (416) 595-1163

## Exhibit III

Date: September 26, 2002

Applicant: Sheena M. Loosmore, et al.

Application No: 09/806,709

Title: PROTECTIVE RECOMBINANT HAEMOPHILUS INFLUENZAE HIGH  
MOLEUCULAR WEIGHT PROTEINS

New Appln. Cheque, Formal Papers: ( )

Retyped Required in Notice of Allowance: ( )

Final Fee: ( )

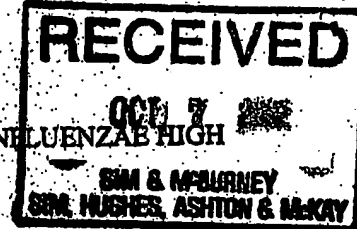
Other: Response to the Notification of Defective Response, Sequence Listing and Diskette  
containing Sequence Listing

Due Date: October 3, 2002

Please place the official stamp of the Patent Office on this card and return it to us for our  
files to constitute an acknowledgment by the Patent Office of receipt of the above-identified  
papers on the date stamped.

SIM &amp; McBURNEY

1038-1138 MIS:jb



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